

REMARKS:

Claims 1-22 are currently pending in the Application.

Claims 1-22 stand rejected under 35 § U.S.C. 103(a) over Cain et al. (WO 2001/55886 A2, hereinafter referred to as "*Cain*"), in view of Wong et al. (USP 5,890,175, hereinafter referred to as "*Wong*").

The Applicant has amended Claims 1, 4, 8, 9, 15, 16 and 22 to more particularly point out and distinctly claim the invention. By making these amendments, the Applicant makes no admission concerning the merits of the Examiner's rejection, and respectfully reserves the right to address any statement or averment of the Examiner not specifically addressed in this response. Particularly, the Applicant reserves the right to pursue broader claims in this Application or through a continuation patent application. No new matter has been added.

Support for the amendment to Claims 1, 4, 8, 9, 15, 16 and 22 may be found in the Specification on at least page 8 and Figure 1.

Reconsideration and withdrawal of the outstanding rejections is respectfully requested in light of the following remarks.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 1-22 stand rejected under 35 § U.S.C. 103(a) over *Cain* in view of *Wong*.

The Applicant respectfully submits that *Cain* and *Wong*, whether considered individually or in combination, fail to disclose or suggest every element of Claims 1-22 for the reason discussed below.

Claims 1, 8, 15, and 22

With respect to amended independent Claim 1, this claim recites in part:

a master global content directory including a plurality of product classes organized in a hierarchy according to a first classification system, each product class categorizing a plurality of products and associated with one or more attributes of the products categorized in the product class, at least one of the product classes having one or more associated product pointers that identify one or more of the sellers' databases;

communicate, in response to selection of the product class by the user, a search query to one or more of the sellers' databases to search product data stored in the sellers' databases identified by one or more of the product pointers to facilitate a commercial transaction involving one or more products.

Independent Claims 8, 15, and 22 recite similar limitations. The proposed combination of *Cain* and *Wong* fail to disclose or suggest these limitations.

For example, *Cain* fails to disclose or suggest a "master global content directory including a plurality of product classes organized in a hierarchy according to a first classification system, each product class categorizing a plurality of products and associated with one or more attributes of the products categorized in the product class, at least one of the product classes having one or more associated **product pointers that identify one or more of the seller's databases**." (Emphasis Added).

The Final Office Action alleges that this limitation is taught by *Cain* at page 5, lines 28-32, page 6, lines 1-15 and pages 22 and 42. However these cited passages of *Cain* fail to disclose, suggest, or even hint at "**at least one of the product classes having one or more associated product pointers that identify one or more of the seller's databases**", as recited in independent Claim 1. Rather, these passages recite that the "itemdata" table may comprise more than one database. The "itemdata" table is an aggregated database of product information.

Cain discloses a hierarchical product classification system which implements a spider module for searching a network (typically internet websites) for textual information pertaining to products (Figure 4B, page 4, lines 7-12, page 25, lines 12-27), aggregating the product information in a table of a database (page 24, lines 3-5), classifying the aggregated products according to a system taxonomy (page 24, lines 6-29), and optionally

generating statistical profiles for association with the products using the information accumulated for the products (page 24, line 30 to page 25, line 8). Ultimately, the database is made available to users on a network such that users can search for products (or otherwise analyze the aggregated product information) and the associated product information and statistical profiles using a variety of search interfaces (page 63, line 13 to page 64, line 5).

Thus, *Cain* teaches that the aggregated item data maybe stored in more than database. However, the databases that comprise the item data belongs to the system of *Cain*, they do not belong to the sellers. Thus, *Cain* fails to teach or suggest “master global content directory including a plurality of product classes organized in a hierarchy according to a first classification system, each product class categorizing a plurality of products and associated with one or more attributes of the products categorized in the product class, at least one of the product classes having one or more associated ***product pointers that identify one or more of the seller’s databases***,” as recited in amended independent Claim 1.

The Applicant further respectfully submits that these distinctions alone are sufficient to patentably distinguish independent Claim 1 from *Cain*.

The Applicant still further respectfully submits that *Cain* fails to disclose or suggest independent Claim 1 limitation regarding “***communicat[ing], in response to selection of the product class by the user, a search query to one or more of the sellers’ databases to search product data stored in the sellers’ databases identified by one or more of the product pointers to facilitate a commercial transaction involving one or more products***.” The Office Action alleges that this limitation is taught by *Cain* at page 9, lines 1-24 and page 27, lines 1-32. However, as discussed above, *Cain* fails to teach or suggest the use of sellers’ databases. Rather, *Cain* teaches information that is stored in databases belonging to the invention of *Cain*.

Thus *Cain* fails to teach or suggest the limitation of “***communicat[ing], in response to selection of the product class by the user, a search query to one or more of the sellers’ databases to search product data stored in the sellers’***”

databases identified by one or more of the product pointers to facilitate a commercial transaction involving one or more products,” as recited in Claim 1.

Therefore, since *Cain* fails to disclose or suggest all of the limitations of Claim 1, *Cain* cannot anticipate or render obvious Claim 1.

Wong fails to cure the deficiencies of *Cain*. *Wong* fails to disclose or suggest the above mentioned limitations missing from *Cain*, including the limitations of “master global content directory including a plurality of product classes organized in a hierarchy according to a first classification system, each product class categorizing a plurality of products and associated with one or more attributes of the products categorized in the product class, at least one of the product classes having one or more associated product pointers that identify one or more of the seller’s databases,” and “communicat[ing], in response to selection of the product class by the user, a search query to one or more of the sellers’ databases to search product data stored in the sellers’ databases identified by one or more of the product pointers to facilitate a commercial transaction involving one or more products.” The Final Office Action fails to even allege that *Wong* discloses or suggests these limitations.

Therefore, *Cain* and *Wong*, whether considered alone or in combination, fails to disclose or suggest all the limitations recited in claim 1. Accordingly, the proposed combination of *Cain* and *Wong* cannot render claim 1 obvious.

Claims 8, 15, and 22 are also considered patentably distinguishable over *Cain* and *Wong* for at least the reasons discussed above in connection with amended independent Claim 1.

Furthermore, with respect to dependent Claims 2-7, 9-14, and 16-21: Claims 2-7 depend from independent Claim 1; Claims 9-14 depend from independent Claim 8; and independent Claims 16-21 depend from Claim 15. As mentioned above, each of independent Claims 1, 8, 15, and 22 are considered patentably distinguishable over the proposed combination of *Cain* and *Wong*. Thus, dependent Claims 2-7, 9-14, and 16-21

are considered to be in condition for allowance for at least the reason of depending from an allowable claim.

For at least the reasons discussed herein, the Applicant respectfully submits that Claims 1-22 are not rendered obvious by the proposed combination of *Cain* and *Wong*. The Applicants further respectfully submit that Claims 1-22 are in condition for allowance. Thus, the Applicant respectfully requests that the rejection of Claims 1-22 under 35 U.S.C. § 103(a) be reconsidered and that Claims 1-22 be allowed.

THE LEGAL STANDARD FOR OBVIOUSNESS REJECTIONS UNDER 35 U.S.C. § 103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, ***there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.*** Second, there must be a reasonable expectation of success. Finally, ***the prior art reference*** (or references when combined) ***must teach or suggest all the claim limitations.*** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, ***and not based on applicant's disclosure.*** *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

With respect to alleged obviousness, ***there must be something in the prior art as a whole to suggest the desirability,*** and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination.

In re Mills, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

CONCLUSION:

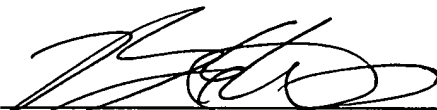
In view of the foregoing remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Enclosed herewith is a Petition for a one-month Extension of Time and a Request for Continued Examination (RCE). The RCE includes an authorization to charge the \$790.00 fee for the RCE and \$120.00 fee for a one-month extension of time to **Deposit Account No. 500777**. If the extension of time is missing or is insufficient for allowing this Amendment to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

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CUSTOMER NO. 53184

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